

Spain's Courts, Already Strained, Face Crisis as Lockdown Lifts

A country known for litigiousness has gingerly restarted court proceedings, and lawyers are bracing for chaos.



By Raphael Minder

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MADRID — A flood of new court cases, some with little precedent, is expected to deluge a Spanish judicial system already gasping for breath, bogged down by delays and lagging in technology.

In a country known for its litigiousness, lawyers and judges are bracing for a period of turmoil and disorder in the wake of the coronavirus pandemic.

One judge expects as many as 150,000 people to file for bankruptcy, up from a few thousand last year. Lawyers representing Spaniards who lost loved ones to the virus have already filed a lawsuit against the government, arguing that it is guilty of negligent homicide.

The country gingerly restarted court proceedings this month after suffering one of the worst outbreaks in Europe. Now experts worry that previous attempts to overhaul Spain's already struggling justice system will be set back even further by the pandemic and an onslaught of new virus-related cases.

"The pandemic will expose the state of abandonment in which politicians have left the justice system," said Javier Cremades, the chairman of the law firm Cremades & Calvo-Sotelo and president of the World Jurist Association.

Litigants have complained for years about cases' dragging out in Spanish courts. A report by the European Commission from last year showed that Spain had one of the most drawn-out processes among member states, with civil cases taking more than 200 days on average to reach initial resolutions.



The Supreme Court building in Madrid. Parliament has taken steps to bolster the court system and speed up its proceedings. Jesús Hellín/Europa Press News, via Getty Images

Proposals to overhaul the system have been repeatedly shelved in recent years as Spain has grappled with four national elections since 2015 and long periods of government limbo.

Parliament, eyeing the backlog and the potential barrage of new cases, was stirred to act this month, approving the government's plan to shift most court proceedings to videoconference, extend court hours and use trainees to bolster staffing. Certain cases — people fighting insolvency or embroiled in child custody disputes, for instance — are to be prioritized.

All court proceedings were suspended in mid-March when Spain declared a state of emergency. They have slowly restarted this month, but lawyers are skeptical that enough has been done.

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“If you ask me how I see the legal landscape, it will be chaotic,” said Rosalia Sicilia, a labor lawyer.

Spaniards are known for taking their disagreements to court, spurred in part by a 2008 Supreme Court ruling that allowed lawyers to collect contingency fees.

In proportion to population, the country had twice as many civil court cases as Germany and Britain, and significantly more than France and Italy, according to a 2016 study by Juan S. Mora-Sanguinetti, a senior economist at the Bank of Spain.

Criminal cases have also lagged in Spain, at times exceeding legal limits and allowing defendants to go free. Criminal cases are not expected to rise after the pandemic — they may even ebb as Spaniards ease out of the lockdown — but if courtrooms are flooded with civil cases it will affect the criminal justice system as well.

The pandemic has disrupted court operations everywhere, but some countries, like Britain, have kept up a significant level of activity online. In the United States, the Supreme Court is hearing arguments by telephone over six days this month, for the first time allowing live remote access to audio of the arguments.

Spain is just now testing those waters.

On May 11, a judge in the northern city of Santander heard Spain's first post-lockdown case via videoconference, a building code dispute during which 30 people followed the proceedings by Skype. Until now, only a few exceptional cases had been conducted electronically.



Moving empty coffins at a funeral home in Barcelona. Lawyers representing thousands of people who lost loved ones to the virus have already filed a suit against the government. Samuel Aranda for The New York Times

Improving technology and communication is crucial to dealing with the judicial crisis, said Cristina Jiménez Savurido, a judge who has taken leave to run Fide, a legal and economic think tank. She noted, for instance, that regional courts operate on incompatible computer systems.

“The computers in Catalonia simply cannot communicate with those in Madrid or the Canary Islands,” Ms. Jiménez Savurido said.

The courts have faced bureaucratic confusion as well. Judges are named by a central judicial council in Madrid, whose members are vetted by Parliament, but regional governments appoint and pay other courtroom staff. Pay disparities have been a sore point: Court-appointed lawyers protested their wages outside Parliament in February.

The split management will make Parliament’s overhaul difficult to put into action, said Santiago Lago Peñas, a professor of economics at the University of Vigo. “It is hard to implement a reform in a fragmented system where everybody has been defending his own space,” he said.

The pandemic will also transform the legal landscape, experts say, with more cases expected and many judged against an evolving set of laws and economic conditions. Ms. Jiménez Savurido said she expected bankruptcy filings to rise exponentially, up from 5,000 last year to as many as 150,000.

And some of the new cases will raise untested arguments. This month, lawyers representing more than 3,000 relatives of people who died during the pandemic filed a lawsuit against the government of Prime Minister Pedro Sánchez, arguing reckless negligence.



With economic activity disrupted across Spain, bankruptcy filings are expected to soar. Samuel Aranda for The New York Times

The lockdown will also change the terms of thousands of labor and business cases, experts say.

In February, Martín Godino Reyes was representing a bank in a dispute over its plan to terminate 550 employees. Now, as the case is re-emerging, the bank faces the likelihood of needing deeper staff cuts at a time when employees are in greater distress and have the backing of new legislation intended to avoid layoffs.

“We will likely face very different parameters for both parties in this dispute, which means an already difficult situation could become a lot more complicated,” said Mr. Godino Reyes, a managing partner at Sagardoy, a Madrid law firm.

The delays that have dragged down the courts in better times are not likely to improve, experts say. The legal trainees enlisted to help the courts, who have passed their bar exams but have no experience, are not enough, they say. And with a ratio of 12 judges per 100,000 residents, Spain has just over half the European average.

“We need more judges, but fully qualified ones and not the trainees who the government is now suggesting could help draw up sentences,” said José María Alonso, the dean of the Madrid bar association.

Spaniards might need to turn away from the courts to settle at least some of their disputes, Ms. Jiménez Savurido said.

“Our system was already very stretched because, unlike in some other countries, people in Spain seem to believe it is always best to let a judge rule rather than try to negotiate a solution in good faith,” she said.

“If everybody just rushes to court as soon as the state of emergency ends,” she added, “this could be disastrous.”

Raphael Minder is the Spain and Portugal correspondent, based in Madrid. He previously worked for Bloomberg News in Switzerland and for the Financial Times in Paris, Brussels, Sydney and finally Hong Kong. @RaphaelMinder

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